

WEBINAR WEDNESDAYS



Wednesday, August 26, 2020

THE MARICOPA COUNTY ATTORNEY'S OFFICE FELONY DIVERSION PROGRAM OVERVIEW

Presented by:

Patti Cordova

Director, Diversion Strategies Group, Maricopa County Attorney's Office

Jason Kalish

Division Chief, Trial Division, Maricopa County Attorney's Office

Grace Ku

Contract Compliance Administrator, Maricopa County Attorney's Office

John Vivian

Diversion Program Evaluator, Maricopa County Attorney's Office

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ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL

3838 N. Central Ave., Suite 850

Phoenix, Arizona 85012

ELIZABETH BURTON ORTIZ

EXECUTIVE DIRECTOR

Felony Diversion Program



August 26, 2020

Patti Cordova, Diversion Strategies Group Director

Jason Kalish, Trial Division Chief

Grace Ku, Contract Compliance Administrator.

John Vivian, Diversion Program Evaluator



Purpose of Training

- Introduction to the Felony Diversion Program
- Eligibility criteria
- Assessment
- Treatment
- Measuring results
- Wrap-up



Primary Goals of MCAO Diversion Programs

- Reduce offender contact with the criminal justice system,
- Increase offender connection to community-based systems of care,
- Hold the offender accountable for criminal conduct,
- Mitigate collateral consequences of a criminal conviction such as disruption in employment, schooling, or family stability,
- Timely financial restoration to the victim,
- Efficient use of limited prosecutorial resources, and
- Increase public confidence in justice system.



The MCAO Felony Diversion Program

“Treat The Offender, Not The Offense”

- Combines previous Drug Diversion and FPIP Diversion Programs
- One Felony Diversion Program Through SAGE Counseling Inc.
- Drug testing by Averhealth



All MCAO Diversion Programs: General Information

- Are offered pre-conviction, but post-filing
- Distinct eligibility criteria defined in policy and statutory requirements in A.R.S. § 11-362(A); prohibited prior offenses
 - **Successful Completion** –charges (post-file) are dismissed w/prejudice
 - **Unsuccessful Completion** –suspended prosecution (post-file) is resumed
- Are administered by MCAO contracted community-based providers who observe strict contracting programmatic requirements including waived or reduced fees for indigent population
- Are monitored and measured for effectiveness



Statutory Authority ARS § 11-361

For the purposes of this article, unless the context otherwise requires, “program” means a special supervision program in which the county attorney of a participating county may divert or defer, before a guilty plea or a trial, the prosecution of a person who is accused of committing a crime, except that the county attorney may not divert or defer the prosecution of a person who:

1. Has been previously convicted of a serious offense as defined in § 13-706, an offense under title 13, chapter 14 a dangerous offense as defined in § 13-105 or a dangerous crime against children as defined in § 13-705.
2. Has been convicted three or more times of either:
 - (a) Personal possession of a controlled substance as defined in § 36-2501.
 - (b) Personal possession of drug paraphernalia as defined in § 13-3415.



Internal Guidelines – Person Eligibility

- Obviously can't violate A.R.S. § 11-361
- No historical prior felonies (except Agg. DUI over 5 years old)
- No convictions for certain sex trafficking crimes
- All open cases must qualify for diversion individually
- Total restitution does not exceed \$2,000
- Was not on probation or pretrial release
- No diversion in the last 5 years



Internal Guidelines– Case Eligibility

- Any Prop. 200 eligible case (and acquisition of drugs by fraud)
- Restitution under \$2,000
- Any class 4, 5 or 6 felony except:
 - Aggravated DUI
 - Robbery
 - Arson
 - Sex offenses
 - Cases involving a firearm or significant physical injury
 - DV cases



Miscellaneous

- If defendant has drug charges with a DUI, divert the drugs, plead the DUI (cannot statutorily divert the DUI)
- Consider views of the victim
- If you think diversion should be used, but violates the policy, talk to your bureau chief



Criminogenic Risk Factors & Using a Risk Assessment (ORAS)



WHAT ARE CRIMINOGENIC RISK FACTORS?

**Dynamic factors that are
highly correlated with
criminal conduct.**

1. Antisocial beliefs
 2. Antisocial associates/peers relationships
 3. Antisocial personality
 4. History of criminal behavior
-
5. Familial factors
 6. Lack of education, employment, vocational, or financial achievement
 7. Lack of pro-social leisure/recreation
 8. Substance abuse



RISK ASSESSMENT

- Felony Diversion Program Participants:
 - Assessed using the validated Ohio Risk Assessment System (ORAS)
 - MCAO required the use of ORAS for all contracted providers in 2019
 - Staff must be trained and go through rigorous certification process in order to administer the ORAS
 - ORAS determines participant's:
 1. Overall Level of Risk to Reoffend – Low, Moderate, High, and Very High
 2. ORAS Criminogenic Needs/Domains :
 1. Criminal History, 2. Education, Employment & Financial Situation, 3. Family & Social Support, 4. Neighborhood Problems, 5. Substance Abuse, 6. Peer Associations and 7. Criminal Attitudes and Behavioral Patterns.



Felony Diversion Program Treatment Tracks



THE NEW MCAO FELONY DIVERSION PROGRAM

***Treat The
Offender,
Not The
Offense***

After receiving the ORAS, participants are placed into one of six "Tracks" of evidence-based curricula treatment:

1. Drug Treatment: Early Intervention Substance Abuse Treatment/Education
2. Drug Treatment: Lapse/Relapse Prevention Program
3. Drug Treatment: Standard Outpatient Counseling Program (SOP)
4. Drug Treatment: Intensive Outpatient Counseling Program (IOP)
5. Cognitive Behavioral Intervention – Short term Group Counseling
6. Cognitive Behavioral Intervention – Long term Group Counseling



Felony Diversion Program Flow Chart (7/27/2020)

DCA Refers Offender to Felony Diversion Program Following Eligibility in MCAO Policies for FPIP & Drug Diversion Cases Referred to SAGE Counseling Inc. (provider)

Certified SAGE Counseling staff administers ORAS Assessment and determines:
1) Overall Risk to Reoffend (low, mod., high & very high) and 2) Level of ¹Criminogenic Need (CN) (low, mod. & high)

LOW Risk Offenders with a ²MODERATE to HIGH level of Substance Abuse Criminogenic Need; CN Score: 3,4, 5, or 6

MODERATE to VERY HIGH Risk Offenders with a ²MODERATE to HIGH level of Substance Abuse Criminogenic Need; CN Score: 3,4, 5, or 6

LOW to VERY HIGH Risk Offenders with a LOW to HIGH Level in all other ²CN's (Primary Focus is not Substance Abuse)

TRACK ONE
LOW Risk Offenders Go To:
Drug Treatment: Early Intervention Substance Abuse Education/Treatment

- 2-hour groups, 1x per week for 10 sessions; all sessions must be completed
- Case management services available if needed
- Required drug testing
- Curriculum: *Group Treatment for Substance Abuse: A Stages of Change Therapy Model (ten specific lessons for all participants)*

OR

TRACK TWO
LOW Risk Offenders Go To:
Drug Treatment: Lapse/Relapse Prevention Program

- Geared towards those who have had success in past SA education or treatment, but have returned to substance use
- 2-hour groups, 1x per week for 10 sessions; all sessions must be completed
- Case management services available if needed
- Required drug testing
- Curriculum: *SAMHSA: Counselor's Manual for Relapse Prevention with Chemically Dependent Criminal Offenders*

TRACK THREE
MODERATE Risk Offenders Go To:
Drug Treatment – Standard Outpatient Program (SOP)

- 2-hour groups, 2x per week for total of 20-34 sessions; all sessions must be completed
- Required: at least one post-group case management session
- Individual counseling/Case Management services available
- Required drug testing
- Curriculum: *Hazelden's Living in Balance – completion of 12 Core Sessions with supplemental supportive sessions (8 to 22) as needed based upon individual needs.*

OR

TRACK FOUR
HIGH/VERY HIGH Risk Offenders Go to:
Drug Treatment – Intensive Outpatient (IOP)

- 50 sessions in total, 3-hour groups: Phase I is 3x per week, stepdown to Phase II is 2x per week, then stepdown to Phase III is 1x per week, for up to two years; all sessions must be completed
- Required 3-12 individual sessions
- Individual counseling/Case Management services available
- Required drug testing
- Curriculum: *Criminal Conduct and Substance Abuse*
- Referrals to inpatient and other higher end services may be possible

TRACK FIVE
LOW Risk Offenders Go To:
Cognitive Behavioral Intervention: LOW

- 2-hour groups, 1x per week, for 12 sessions; all sessions must be completed
- Individual counseling/Case Management services available
- Drug testing available
- Curriculum: *Decision Points (5 lessons and accompanied activities)*

OR

TRACK SIX
MODERATE to HIGH/VERY HIGH Risk Offenders Go To:
Cognitive Behavioral Intervention: MODERATE to VERY HIGH

- Closed groups
- 2-hour groups, 2x per week for 25 sessions; all sessions must be completed
- Individual counseling/Case Management services available
- Drug testing available
- Curriculum: *National Institute of Corrections: Thinking for a Change 4.0*

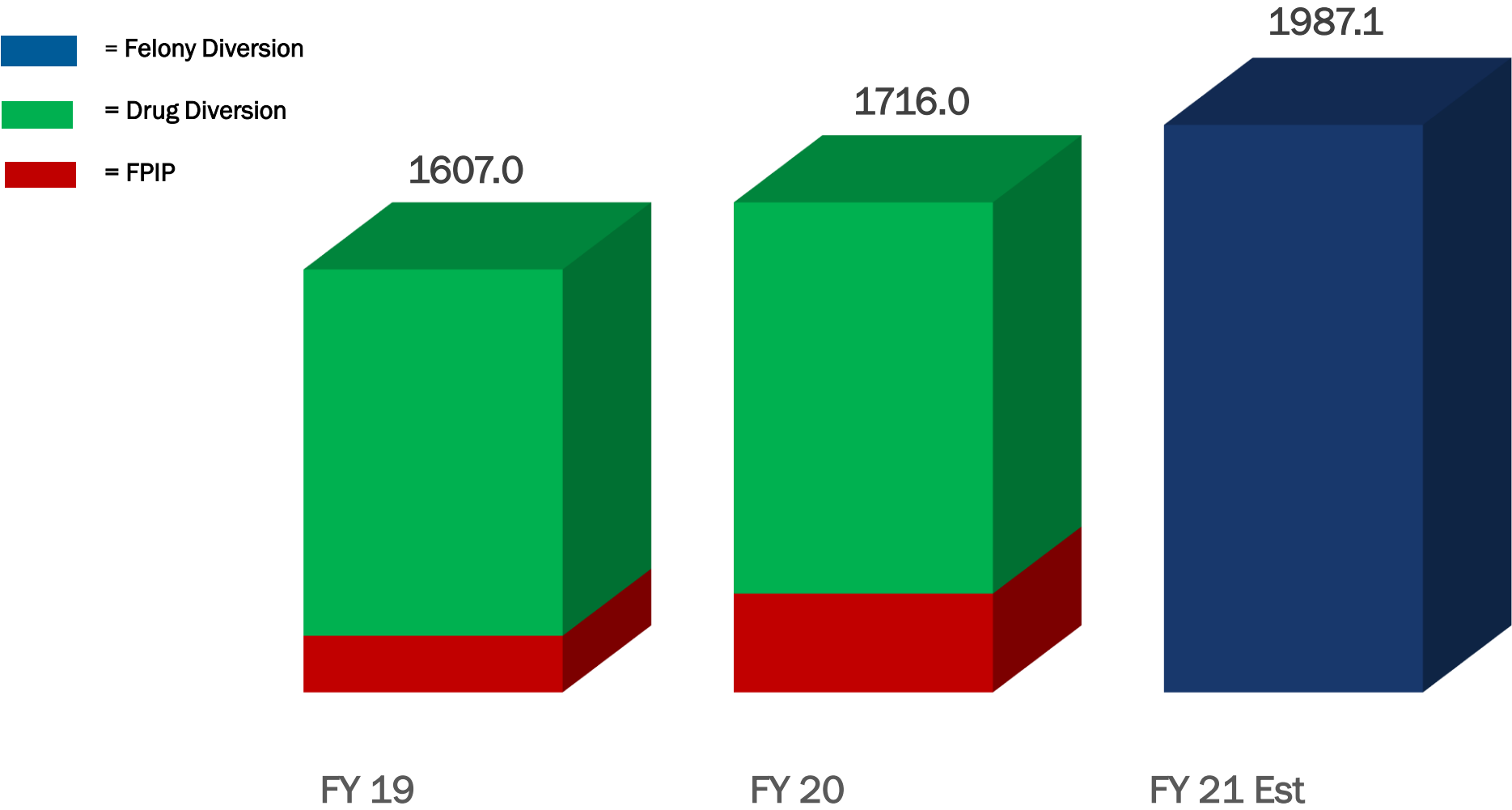
¹Criminogenic Needs or Domains in ORAS are: 1. Criminal History, 2. Education, Employment & Financial Situation, 3. Family & Social Support, 4. Neighborhood Problems, 5. Substance Abuse, 6. Peer Associations & 7. Criminal Attitudes and Behavioral Patterns. Criminogenic needs are those factors which research correlates to the cause of criminal behavior. ² If there is one or more CN that is equal to the MODERATE or HIGH Substance Abuse CN, then clinical discretion may be used to decide treatment track.



Measuring Results



Average Enrollment by Program and Year





Scorecard

Fiscal Year 2020 Monthly Activity Scorecard, Last updated: 8/3/2020

Performance Metric Title	JOP	YTD	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June
Check Enforcement														
Newly enrolled	12.8	Average	11.9	10	17	37	7	9	8	13	11	13	4	7
Total enrolled	n/a	Average	10.3	TBD	TBD	TBD	TBD	15	8	12	11	12	6	10
Restitution	\$198,647.80	Total	\$108,743.53	\$10,116.60	\$8,904.90	\$23,629.40	\$8,818.94	\$4,437.81	\$6,703.52	\$8,911.63	\$7,534.64	\$9,343.86	\$1,502.97	\$9,999.62
Cases paid in full	106	Total	58	5	4	6	3	2	6	9	5	7	1	4
Felony Pretrial Intervention Program														
Newly enrolled	53.9	Average	59.7	68	68	67	69	56	54	84	69	59	3	0
Total enrolled	248.7	Average	429.5	366	400	391	439	470	490	432	455	459	393	459
Successful Completions*	n/a	Target	61.7%	61.7%	61.7%	61.7%	61.7%	61.7%	61.7%	61.7%	61.7%	61.7%	61.7%	61.7%
	61.7%	Average	76.4%	60.0%	74.3%	78.6%	50.0%	97.1%	82.4%	58.6%	65.2%	90.5%	87.5%	0.0%
Drug Diversion														
Newly enrolled	261.1	Average	193	338	311	149	313	254	239	270	216	151	51	27
Total enrolled	1607.3	Average	1,588	1,740	1,744	1,706	1,699	1,746	1,780	1,720	1,697	1,613	1,475	1,312
Successful Completions*	n/a	Target	49.5%	49.5%	49.5%	49.5%	49.5%	49.5%	49.5%	49.5%	49.5%	49.5%	49.5%	49.5%
	49.5%	Average	55.8%	61.1%	63.8%	48.5%	60.8%	37.0%	41.6%	54.7%	39.6%	49.1%	46.0%	77.6%
Justice Court (includes AZ Retailers Tobacco Training)														
Newly enrolled	89.0	Average	91	86	90	90	118	145	100	106	82	99	51	64
Total enrolled	172.1	Average	124	115	122	120	150	200	185	69	160	241	31	38
Successful Completions*	n/a	Target	85.9%	85.9%	85.9%	85.9%	85.9%	85.9%	85.9%	85.9%	85.9%	85.9%	85.9%	85.9%
	85.9%	Average	78.0%	80.9%	73.6%	85.9%	83.8%	76.9%	62.9%	80.4%	76.6%	75.0%	65.8%	83.3%
Parenting Skills														
Newly enrolled	n/a	Average	2.3	1	1	4	4	2	4	0	4	6	0	1
Total enrolled	n/a	Average	7.0	TBD	TBD	TBD	TBD	7	12	11	10	6	6	2
Successful Completions*	n/a	Target	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	0.0
	n/a	Average	n/a	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	33.3%	100.0%	0.0%	0.0%
Seriously Mentally Ill - Felony Diversion Program														
Newly enrolled	n/a	Average	1.8	0	0	1	1	3	5	4	2	3	2	0
Total enrolled	n/a	Average	9.6	0	0	1	2	5	10	14	16	18	17	16
Successful Completions*	n/a	Target	TBD	n/a	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
	n/a	Average	n/a	n/a	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Animal Cruelty														
Newly enrolled	n/a	Average	0.8	n/a	1	2	2	2	0	0	1	1	0	0
Total enrolled	n/a	Average	3.3	n/a	TBD	TBD	TBD	2	2	4	4	3	5	3
Successful Completions*	n/a	Target	TBD	n/a	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
	n/a	Average	n/a	n/a	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD

* Programs that adhere to evidence based practices typically have successful completion rates of 65% to 85% (University of Cincinnati, Corrections Institute, 2015).

Green cells = equal to or exceed target, Yellow = 75% to 99% of target and Red = ≤74% of target



FPIP Recidivism by Year and Method

Calculation Method	FY 2016 (total =49)	FY 2017 (total =110)	Average (total =159)
Rearrest within Arizona	16.3%	14.5%	15.4%
Resubmittal to MCAO	6.1%	7.3%	6.7%
New Arizona criminal conviction	14.3%	10%	12.1%
Arizona prison sentence	2%	0%	1%



Program Evaluations

- Correctional Program Checklist
- Interviews, document reviews, group observations
- Advantages
 - Applied to many correctional programs
 - Quantify program quality
 - Quick
 - Program improvement



MCAO Felony Diversion Program Overview

- Patti Cordova, Diversion Strategies Group Director
 - cordovap@mcao.Maricopa.gov; 602-506-5661
- Jason Kalish, Trial Division Chief
 - kalish@mcao.Maricopa.gov; 602-506-1159
- Grace Ku, Contract Compliance Administrator
 - kug@mcao.Maricopa.gov; 602-506-5833
- John Vivian, Diversion Program Evaluator
 - vivianj@mcao.Maricopa.gov; 602-506-0669



Questions?

PATTI CORDOVA, DIVERSION STRATEGIES GROUP DIRECTOR, 602-506-5661

CORDOVAP@MCAO.MARICOPA.GOV

OR

JASON KALISH, TRIAL DIVISION CHIEF, 602-372-0163

KALISH@MCAO.MARICOPA.GOV